

## REMARKS

Claims 3-5, 9, 14-16 and 22 stand rejected as not being sufficiently definite. Claims 1, 5-6, 8, 10-11, 16-17, 19 and 21-22 stand rejected as being unpatentable over U.S. Patent No. 6,167,383 (Henson) in view of the Ebuild web site, as of November 12, 2001 (Ebuild '01). Claims 2, 7, 12-13 and 18 stand rejected over Ebuild '01 and Henson in view of ASHRAE '93. Claims 3-4 and 14-15 stand rejected as being unpatentable over Ebuild '01 and Henson in view of U.S. Patent No. 6,070,149 (Tavor). Claim 9 stands rejected as being unpatentable over Ebuild '01 and Henson in view of U.S. Patent No. 6,134,557 (Freeman). Reconsideration of the rejections is solicited in view of the foregoing amendments and the following remarks.

Applicant is appreciative of suggestions made by the Examiner via telephone call initiated by applicant to address the indefiniteness issues set forth in the Office Action in connection with claims 3-5, 9, 14-16 and 22. It is respectfully submitted that, as amended, claims 3-5, 9, 14-16 and 26 are no longer subject to any indefiniteness issues, and, therefore, it is requested that these grounds of rejection be withdrawn.

Regarding any rejection under 35 U.S.C. §103, it is respectfully noted that the test for patentability is whether there is some teaching or suggestion in the prior art references to support their use to reject the claimed invention. It is a basic tenet of patent law that the PTO is not permitted to ignore the results and advantages produced by claimed subject matter, of which the prior art is devoid, simply because the recited structure may be similar to that otherwise barren prior art. Further, when evaluating a claim for determining obviousness, all structural and operational interrelationships of the claim must be evaluated.

Applicant further notes that it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. The Court of Appeals Federal Circuit has previously stated that "[o]ne cannot use hindsight

reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.”

Claim 1 is directed to a computer-based method for providing guidance to a purchaser for selecting an appliance that requires venting. The guidance comprises recommendations that take into account physical constraints regarding a venting structure for the appliance. That is, structure for routing airflow from the appliance. Claim 1 recites that a set of prompts is provided to elicit information from the purchaser regarding vent parameters indicative of the physical constraints for the venting structure for the appliance. The information supplied by the purchaser is processed relative to vent requirements data for the appliance of interest to determine a recommendation regarding suitability of the venting structure relative to the appliance of interest.

By way of comparison, the Ebuild website merely allows a purchaser to input preferences in connection with the purchase of an exhaust vent/range hood appliance. The Ebuild web site is not concerned with addressing physical constraints regarding a venting structure for the appliance. More particularly, the Ebuild website does not issue any recommendation regarding the suitability of a given venting structure relative to an appliance of interest. Accordingly, the Ebuild web site neither elicits nor processes any vent parameters indicative of physical constraints for the venting structure. The Ebuild website merely collects preferences regarding the characteristics of the exhaust/range appliance but not of the venting structure that will be coupled to the appliance. It is recognized that one of the preferences that the Ebuild web site offers to the purchaser is the type of venting for the appliance. However, the Ebuild web site just presents to the purchaser a choice of whether the appliance is ducted, ductless or convertible. If the selected appliance is ductless, then it will be apparent that the purchaser need not worry about any physical constraints for a venting structure since a ductless appliance presumptively does not use a venting structure. Assuming however that the purchaser selects a ducted preference for his exhaust appliance, where does the Ebuild web site present a prompt to elicit information regarding vent parameters indicative of physical constraints for the venting

structure for the appliance? As best understood, the Ebuild web site simply matches the preferences of the purchaser to the seller's available stock of appliances. If the purchaser wants a ducted appliance, that is the end of the inquiry since the purchaser will be presented with various possible ducted appliances. Accordingly, the Ebuild web site fails to teach or suggest any recommendations regarding suitability of a venting structure relative to the appliance of interest. The Ebuild web site lacks the advantages provided by the present invention that *inter alia* elicits and processes vent parameters indicative of physical constraints of the venting structure to be used with the appliance. In a practical implementation, a house builder, for example, may have constructed a venting structure subject to specific physical constraints. The problem that the builder faces is not just purchasing a ducted appliance but purchasing a ducted appliance that will appropriately function when subject to the physical constraints of the venting structure. The techniques of the present invention advantageously allow matching the venting requirements of the appliance to the physical constraints of the venting structure available for the appliance. The Ebuild web site is at least one level removed from the advantages of the present invention since the Ebuild web site does not appear to go beyond whether the appliance is ducted, ductless or both. The present invention presumes the need of a venting structure and goes on to elicit and process information indicative of physical constraints of the venting structure to be used with the appliance in order to make a determination of suitability or compatibility between the venting structure and the appliance.

Henson is directed to an online store for enabling a custom configuration of a computer system according to a prescribed user input. As seen in FIGS. 3-5, Henson provides a user interface that allows a purchaser to select various configuration choices for the computer system. In Henson, the purchaser may be assisted to choose a type of hard drive, or a type of monitor or a type of soundcard, etc.; however, Henson does not appear to elicit and process any parameter indicative of physical constraints regarding an installation structure for the computer. Henson may be analogized to an online tool that may allow a car

buyer to configure a car based on a list of available options presented to the car buyer. An example of available options would be engine size, transmission type, etc. However, Henson should not be analogized to a computer-based method that allows the car buyer to supply parameters indicative of physical constraints regarding the operation of the car, and then processing the supplied parameters to issue a recommendation suitable for meeting such physical constraints. An example may be as follows: Given that my cargo load requirement is one ton and climbing hill requirements are 20 degrees of inclination, provide a vehicular recommendation suitable for meeting such physical constraints. A possible recommendation would be a four-wheel drive truck with an eight cylinder engine in order to meet the exemplary physical constraints of the application. The foregoing analogies have been presented with the expectation of more vividly pointing out to the deficiencies of the applied references. It is respectfully submitted that Henson fails to remedy the shortcomings of the Ebuild website and consequently Henson and Ebuild '01, singly or in combination, fail to render obvious claim 1. Since each of the dependent claims from independent claim 1 includes the structural and/or operational relationships respectively recited in such independent claim, it is also respectfully submitted that Henson and Ebuild '01, singly or in combination, also fail to obviate each of such dependent claims.

Claim 2 sets forth operational relationships regarding the processing of the information supplied by the purchaser regarding vent parameters indicative of physical constraints of the venting structure for the appliance. The Office Action rightly recognizes that neither Henson nor Ebuild '01 teach or suggest the operational relationships set forth in claim 2. The Office Action goes on to apply ASHRAE '93 in an attempt to overcome the deficiencies of Henson and Ebuild '01. However, ASHRAE '93 merely validates what applicant already pointed out in the background section of the present application. More specifically applicant pointed out that although the engineering principles for analyzing and understanding vent designs are well-understood in the art, prior art techniques for conducting such analysis are not user-friendly, particularly to non-technical users, since such techniques generally require the user to perform calculations or

understand engineering tables, plots, equations and engineering terms.' By way of comparison the present invention provides techniques that, based on basic vent parameters supplied by the purchaser, are able to provide accurate and concise recommendations to the purchaser regarding suitability of the venting structure relative to the appliance of interest, without involving the purchaser in any computational or analytical tasks, as ASHRAE '93 would require. In view of the foregoing it is respectfully submitted that ASHRAE '93 fails to overcome the deficiencies of Henson and Ebuild '01 and consequently Henson, Ebuild '01 and ASHRAE '93, singly or in combination, fail to render obvious claim 2 as well as claims 7, 12-13 and 18.

Based on the rejections discussed so far, it is apparent that the Office Action views the Ebuild '01 and the Henson references as primary references. In one instance, such primary references are combined with Tavor to reject claims 3-4 and 14-15. In another instance, such primary references are combined with Freeman to reject claim 9. It is respectfully submitted, however, that neither Tavor nor Freeman, singly or in combination, remedy the fundamental deficiencies of Ebuild '01 and Henson, as discussed above, and, therefore, such applied references do not obviate claims 3-4, 14-15 and 9.

Claim 11 is directed to a computer-based system for providing guidance to a purchaser for selecting an appliance that requires venting. For the reasons discussed above, it is respectfully submitted that both Henson and Ebuild '01, singly or in combination, fail to render obvious claim 11. Since each of the dependent claims from independent claim 11 include the structural and/or operational relationships respectively recited in such independent claim, it is also respectfully submitted that Henson and Ebuild '01, singly or in combination, also fail to obviate each of such dependent claims.

It is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

The applicant appreciates the Examiner's efforts for conducting a thorough examination, and cordially invites the Examiner to call the undersigned attorney if there are any outstanding items that may be resolved via telephone conference.

Respectfully submitted,

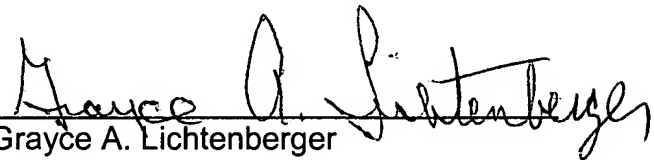


---

Enrique J. Mora, Esquire  
Registration No. 36,875  
Beusse Brownlee Bowdoin & Wolter, P.A.  
390 North Orange Avenue, Suite 2500  
Orlando, Florida 32801  
Telephone: (407) 926-7705  
Facsimile: (407) 926-7720

**Certificate of Mailing**

I hereby certify that a true and correct copy of the above Amendment was furnished by First Class Mail to: the Commissioner of Patents, MAIL STOP NON-FEE AMENDMENT, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12<sup>th</sup> day of March, 2004.

  
Grayce A. Lichtenberger